

KIRKLAND & ELLIS LLP

KIRKLAND & ELLIS INTERNATIONAL LLP

Joshua A. Sussberg, P.C. (admitted *pro hac vice*)

Emily E. Geier, P.C. (admitted *pro hac vice*)

Derek I. Hunter (admitted *pro hac vice*)

601 Lexington Avenue

New York, New York 10022

Telephone: (212) 446-4800

Faxsimile: (212) 446-4900

joshua.sussberg@kirkland.com

emily.geier@kirkland.com

derek.hunter@kirkland.com

COLE SCHOTZ P.C.

Michael D. Sirota, Esq.

Warren A. Usatine, Esq.

Felice R. Yudkin, Esq.

Court Plaza North, 25 Main Street

Hackensack, New Jersey 07601

Telephone: (201) 489-3000

msirota@coleschotz.com

wusatine@coleschotz.com

fyudkin@coleschotz.com

Co-Counsel for Debtors and

Debtors in Possession

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

In re:

BED BATH & BEYOND INC., *et al.*,

Debtors.¹

Chapter 11

Case No. 23-13359 (VFP)

(Jointly Administered)

**DEBTORS' APPLICATION IN LIEU OF MOTION IN
SUPPORT OF ENTRY OF STIPULATION AND CONSENT ORDER
BETWEEN THE DEBTORS AND SAMA PLASTICS CORP. AND SAMA WOOD LLC**

¹ The last four digits of Debtor Bed Bath & Beyond Inc.'s tax identification number are 0488. A complete list of the Debtors in these Chapter 11 Cases and each such Debtor's tax identification number may be obtained on the website of the Debtors' claims and noticing agent at <https://restructuring.ra.kroll.com/bbby>. The location of Debtor Bed Bath & Beyond Inc.'s principal place of business and the Debtors' service address in these Chapter 11 Cases is 650 Liberty Avenue, Union, New Jersey 07083.

TO: THE HONORABLE JUDGE VINCENT F. PAPALIA UNITED STATES
BANKRUPTCY COURT FOR THE DISTRICT OF NEW JERSEY:

The above-captioned debtors and debtors in possession (collectively, the “Debtors”), by and through their undersigned co-counsel, Cole Schotz P.C., and Kirkland & Ellis LLP and Kirkland & Ellis International LLP (collectively, “Kirkland”), respectfully state the following in support of this application (the “Application”), pursuant to D.N.J. LBR 9021-1(b), seeking the approval and entry of the proposed *Stipulation and Consent Order Between the Debtors and Sama Plastics Corp. and Sama Wood LLC* (the “Proposed Stipulation”),² a copy of which is attached hereto as Exhibit 1, and respectfully state as follows:

1. On April 23, 2023 (the “Petition Date”), each Debtor filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code. The Debtors are operating their businesses and managing their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. On April 24, 2023, the Court entered an order [Docket No. 75] authorizing procedural consolidation and joint administration of these Chapter 11 Cases pursuant to Bankruptcy Rule 1015(b). On May 5, 2023, the United States Trustee for the District of New Jersey (the “U.S. Trustee”) appointed an official committee of unsecured creditors pursuant to section 1102 of the Bankruptcy Code (the “Committee”) [Docket No. 218].

2. Prior to the Petition Date, Sama Plastics Corp. and Sama Wood LLC (together “Sama”) filed a verified complaint (the “Complaint”) against the Debtors and commenced the case styled as SAMA PLASTICS CORP. AND SAMA WOOD LLC V. BED, BATH & BEYOND, INC. (the “Prepetition Litigation”) in the Superior Court of New Jersey Law

² Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Proposed Stipulation.

Division, Union County, where the Prepetition Litigation is currently pending, on account of, among other things, outstanding prepetition invoices (the “Prepetition Claim”).

3. Sama and the Debtors (each a “Party” and collectively, the “Parties”) are Parties to the Fixture Supplier Expectation Guidelines (the “Guidelines”). Pursuant to these Guidelines, Sama sells fixtures to the Debtors in exchange for a fee and stores the fixtures in its warehouse or other storage facilities (collectively, the “Warehouse”) until they are shipped to the Debtors’ stores. In accordance with the Guidelines, the Debtors issued a letter to Sama on September 19, 2007 (the “September 19th Letter”) where Sama agreed to maintain a reasonable amount of inventory for the Debtors based on historical usage data for online order fulfillment. In accordance with the September 19th Letter, Sama stored inventory and related items that were being stored by Sama for the Debtors and were the subject of the Prepetition Litigation (collectively, the “Stored Fixtures”) at the Warehouse on behalf of the Debtors.

4. Sama desires to lift the automatic stay imposed by section 362 of the Bankruptcy Code (the “Automatic Stay”) to reclaim and utilize, sell, or dispose of the Stored Fixtures as Sama deems appropriate.

5. Sama and the Debtors desire to resolve certain claims and causes of action that Sama may hold against the Debtors, which include any postpetition claim or cause of action and any administrative expense claim under section 503(b) of the Bankruptcy Code or otherwise held by Sama against any of the Debtors and their related parties (the “Potential Postpetition Claims”).

6. Lifting of the Automatic Stay will benefit the Debtors’ bankruptcy estates by resolving the Potential Postpetition Claims.

7. The Parties have agreed to the terms of the attached Proposed Stipulation.

8. The Debtors submit that the Proposed Stipulation is in the best interest of the Debtors and their estates.

9. This Application is submitted pursuant to D.N.J. LBR 9021-1 (b) in lieu of a motion in support of the Debtors' request that the Court enter the Proposed Stipulation as presented.

10. No previous application for the relief sought herein has been made to this or any other Court.

[Remainder of Page Intentionally Left Blank]

WHEREFORE, the Debtors respectfully request that the Court enter the Proposed Stipulation, in substantially the forms submitted herewith, granting the relief requested herein and such other relief as is just and proper under the circumstances.

Dated: June 22, 2023

/s/ Michael D. Sirota

COLE SCHOTZ P.C.

Michael D. Sirota, Esq.

Warren A. Usatine, Esq.

Felice R. Yudkin, Esq.

Court Plaza North, 25 Main Street

Hackensack, New Jersey 07601

Telephone: (201) 489-3000

Email: msirota@coleschotz.com

wusatine@coleschotz.com

fyudkin@coleschotz.com

KIRKLAND & ELLIS LLP

KIRKLAND & ELLIS INTERNATIONAL LLP

Joshua A. Sussberg, P.C. (admitted *pro hac vice*)

Emily E. Geier, P.C. (admitted *pro hac vice*)

Derek I. Hunter (admitted *pro hac vice*)

601 Lexington Avenue

New York, New York 10022

Telephone: (212) 446-4800

Facsimile: (212) 446-4900

Email: josuha.sussberg@kirkland.com

emily.geier@kirkland.com

derek.hunter@kirkland.com

*Co-Counsel for Debtors and
Debtors in Possession*